

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:15-cv-00163-FDW-DCK

LEGACY DATA ACCESS, INC., a Georgia)
corporation, and DIANNE M. PETERS, a)
Georgia resident)

Plaintiffs,)

vs.)

CADRILLION, LLC, a North Carolina)
limited liability company, LEGACY DATA)
ACCESS, LLC, a North Carolina limited)
liability company, and JAMES YUHAS, a)
North Carolina resident,)

Defendants)

ORDER

THIS MATTER is before the Court on the joint motion of Plaintiffs Legacy Data Access, Inc. and Diane M. Peters and Defendants Cadrillion, LLC and James Yuhas for stay of proceeding to enforce a judgment (Doc. No. 154) pursuant to Rule 62(d) of the Federal Rules of Civil Procedure. After a careful review, and noting Plaintiffs' consent to the relief sought, the Court GRANTS the Motion.

1. On February 8, 2017, this Court entered an Amended Judgment in favor of Plaintiffs Legacy Data Access, Inc. and Diane M. Peters (collectively "Plaintiffs") and against Defendants Cadrillion, LLC and James Yuhas (collectively "Defendants") in the collective, total amount of \$2,642,190.76, plus post judgment interest.

2. On February 16, 2017, Defendants timely filed a Notice of Appeal from the Amended Judgment, and the appeal is currently pending before the United States Court of Appeals for the Fourth Circuit (the "Fourth Circuit").

3. Pursuant to Rule 62(d) of the Federal Rules of Civil Procedure, Defendants may obtain a stay of proceedings during the pendency of the appeal by supersedeas bond to secure the full amount of the Amended Judgment pending appeal.

4. Defendants propose, and Plaintiffs have agreed to accept, an Irrevocable Standby Letter of Credit (the “Letter of Credit”) from Paragon Commercial Bank (“Paragon”), a copy of which is attached as Exhibit B to the Motion, in favor of Plaintiffs in the total amount of Judgment plus ten percent (\$2,906,409) as security for the Amended Judgment pending appeal in lieu of a supersedeas bond.

5. Given Plaintiffs’ consent to the relief requested in the Motion and to the alternative security offered by Defendants and upon the record before it, the Court finds that a stay of the proceedings pending appeal is warranted in this matter and that the Letter of Credit constitutes sufficient security to protect Plaintiffs during the pendency of the appeal.

6. The Court hereby stays these proceedings during the pendency of the appeal and permits Defendants to provide Plaintiffs with the Letter of Credit in favor of Plaintiffs in the total amount of Judgment plus ten percent (\$2,906,409) in lieu of a supersedeas bond pursuant to the following procedures:

- a. Should the Fourth Circuit affirm the Amended Judgment, in whole or in part, the stay granted herein shall extend for an additional sixty (60) days following the issuance of the mandate from the Fourth Circuit to permit Defendants to voluntarily satisfy the full amount of the affirmed Amended Judgment.
- b. If, during such sixty (60) day period, Defendants fail to voluntarily satisfy the full amount of the affirmed Amended Judgment, Plaintiffs (jointly and severally) may apply to


this Court for, and the Court will enter, an Order granting one or both Plaintiffs the right of execution against the Letter of Credit and directing Paragon to pay, upon presentment of such Order, the affirmed amount of the Amended Judgment to one or both Plaintiffs.

c. If, on the other hand, during such sixty (60) day period, Defendants voluntarily satisfy the full amount of the Amended Judgment or if the Fourth Circuit reverses or vacates the Amended Judgment in its entirety (whether or not the Fourth Circuit remands the case for a new trial), Defendants may apply to this Court for, and the Court will enter, an Order releasing Defendants' and Paragon's obligations under the Letter of Credit. Upon the presentment of such Order to Paragon, the Letter of Credit will expire and all obligations arising thereunder shall be released.

Accordingly and pursuant to the procedures outlined above, the Parties Joint Motion for Stay (Doc. No. 154) is GRANTED.

IT IS SO ORDERED.

Signed: March 21, 2018


A handwritten signature in black ink, appearing to read "Frank D. Whitney", is written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

